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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,495	10/31/2003	James A. Mooney	4003	9594
26646	7590	11/17/2005		
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			EXAMINER KOHNER, MATTHEW J	
			ART UNIT	PAPER NUMBER
			3653	
DATE MAILED: 11/17/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,495

Applicant(s)

MOONEY ET AL.

Examiner

Matthew J. Kohner

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34 is/are pending in the application.
- 4a) Of the above claim(s) 8,9,11,13,18,21,23-33 and 39-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant has argued that claims 35-38 were cancelled by preliminary amendment and therefore the rejections of these claims is moot. Examiner agrees and the rejections are withdrawn. In regard to claim 34, Applicant argues Bakula does not disclose or even suggest any configuration provided in claim 34 which provides a first and second portion of said screen assembly spaced from and overlying said first and second finger-receiving apertures, respectively, and secured between said plate and said first and second flanges, respectively (Applicant's remarks). Applicant, further argues Bakula presents a configuration which is opposite of the necessary features of claim 34 (Id).

Examiner has considered Applicant's arguments and respectfully disagrees. Examiner submits Bakula does disclose each and every limitation of claim 34. In regard to the Applicant's arguments, Examiner directs applicant to figure 17 which shows the screen (22) spaced apart from and overlying the apertures (see the holes in plate and how the undulating parts of the screen are spaced apart from the holes in the plate) and secured between the plate and the flange (see where screen is held between the plate underneath and the flange which bends in a U-shape and secures both the screen and the drawbar [23]).

Therefore, the rejection of claim 34 is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 34 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,332,101 to Bakula.

In regard to claim 34, Bakula discloses a vibratory screen comprising:

- a plate (27),
 - first and second side edge portions on said plate (the plate inherently has side edges),
- first and second series of apertures (Col. 5, lines 32-33; see also Fig. 17) in said first and second side edge portions, respectively,
- first and second flanges (25) on said plate located outwardly of said first and second series of apertures, respectively,
- an screen (22) on said plate, and
- first and second portions of said screen assembly spaced from and overlying said first and second apertures (See Fig. 17), respectively, and
 - secured between said plate and said first and second flanges, respectively (Col. 5, line 34; see also Fig. 17).

Examiner notes that the term “finger receiving”, which describes the aperture, is an intended use and not given patentable weight.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 571-272-6939. The examiner can normally be reached on Mon-Fri 9-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on 571-272-6944. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew J. Kohner
Examiner
Art Unit 3653

mjk


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